

*Customs Brokers & Foreign Freight
Forwarders Association of Chicago*

7100 W. 121st St. #31

May 17, 2004

Dockets Management Branch (HFA-305)
U.S. Food and Drug Administration
5630 Fishers Lane, Room 1061
Rockville, MD 20852

RE: Reopened comments on prior notice of imported food under The Public Health, Security and Bioterrorism Preparedness and Response Act of 2002.

DOCKET NUMBERS 2002N-027 and 2002N-0278

The Customs Brokers and Foreign Freight Forwarders Association of Chicago (CBFFFAC) represents Customs Brokers, Freight Forwarders, and other associated companies in the Chicago and surrounding area.

As an association we recognize the need to protect our national food and water supply. Several of our members attended the initial satellite presentation held at the Chicago F.D.A. office. When the second satellite program was presented, again our membership attended your meetings at the F.D.A. in Chicago and also the U.S. Customs and Border Protection office. To Promote further training within our port, we (CBFFFAC) sponsored two training seminars open to our entire association. Each of these sessions, were full house presentations. We hope these efforts show our port is committed to the general concepts of The Public Health Security and Bioterrisiom Preparedness and Response Act of 2002.

The following are concerns, we as an association would like addressed prior to the final implementation of the BTA.

1) **Validity of the Prior Notice Transmission**

The only message that is returned is prior notice received. There is no way to know if the data sent is actually correct. We have been told as long as the dedicated spaces are filed in, it is considered correct at this time. When the final phase is in place, and penalties are being issued is not the time to find out the information is wrong or lacking proper details. We feel that more detailed training should be provided for each mode of transportation. Since our port is inland, we are also dealing with container shipments arriving in Montreal, Vancouver, Etc and then railed to Chicago. There is still conflicting information as to when the prior notice needs to be transmitted to be complaint.

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Furthermore, we have been told a receipt of a confirmation numbers, does not mean the information transmitted was correct. Again, we would strongly urge FDA to provide more training to assure that complete and accurate transmission of Prior notice data.

2) **F.D.A. MID Database**

The existing database is very out of date. There is no program in place to update the current information to agree with the CBP database. In several instances brokers have received rejections for mismatched MID information, when in fact the broker transmitted data correctly. We strongly urge FDA to interact with Customs and Border Protection to allow the MID system to be updated.

3) **Prior Notice System Interface**

In most cases the FDA web based Prior Notice system is unavailable. The usual problem is too many users on line. When this system is used to transmit similar items of various sizes, etc, the time it takes to properly enter the data is extreme. Most of the brokers we are in contact with are using their own software programs. However, recently the FDA/ABI System was down for more than two days. During this time, the web-based system was also not available. Prior notice requirements do not lend to system breakdowns. The PNSI system must be corrected before the August enforcement deadline, to assure that legitimate trade is not impacted due to the system failures that occur.

4) **Sample and Personal Use Shipments**

The final rule offers exemption status for homemade food and personal use food products that accompany individuals arriving into the United States. FDA has established these items pose little risk to public health. Many times our clients have small quantity shipments that are never used by the general public. These small quantity shipments are for testing or quality control. Many times they are from a new factory or supplier. The burden to produce the prior notice data, out weighs the cost of the goods. Often these samples are unsolicited by the importer. The time involved in obtaining the necessary information to file prior notice is very costly to the importer in demurrage and storage fees incurred while the data is being retrieved. We would ask to include a sample or personal use exemption in the final revision.

5) **After Hours and Weekend Filing**

The prior notice time frame for shipments arriving on the weekend is posing an undue hardship on our association. Many of our members do NOT operate on a 24/7 basis. A large percentage of the air cargo arriving in our ports arrives from Friday evening to Monday morning. The prior notice requirement for air is before arrival but after wheels up. Many brokers do not have adequate weekend staff to meet these requirements. Frequently cargo is booked for a light, and when space allows the cargo actually arrives a day early. This scenario could occur when the broker's office is closed. When the cargo manifest is received on Monday, the broker on behalf of the importer is already non-compliant. There is also the problem of cargo that should arrive on Friday and is bumped for space. When the cargo arrives on Saturday, the brokers office is closed and again in non-compliance. We would propose that a Prior notice filed on the first normal business day after a weekend or Holiday would be in compliance with the final BTA.

6) **Corrections**

Within the scope of the current system, there are no provisions for the correction of a simple clerical error without the cancellation of the PN entry and filing a replacement. This scenario creates additional work in an already overburdened environment. The PN entry should be accessible for updates or minor corrections as they arise.

7) **Delayed Prior Notice Filing**

We believe that most brokers are doing their best to be in compliance with the BTA. However, in the real world we know there will always be an exception here and there. Even though we have advised all our clients to make sure their documents are received in a timely manner, there will always be exceptions. Currently there is no way to file a PN after the cargo arrives. The filer must enter an incorrect date of arrival to have the data accepted. This creates a skewed data detail environment. We would suggest that there are provisions for a PN to be filed after the cargo arrives in limited cases. The provision could be monitored to provide penalties for continued abuse

The Customs Brokers and Foreign Freight Forwarders Association of Chicago would suggest a postponement of the August 12th, 2004 final enforcement date. We are aware that FDA is still in the process of updating and amending your programming. Our software vendors will also need additional time to make the necessary updates to their product once your updates are complete.

We are dedicated to the principles of the safety to the American public food and water supply. However, there needs to be a consideration to the costs and timely flow of international trade.

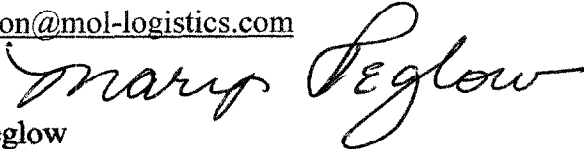
We would also call your attention to the comments that are being provided by the National Customs Brokers and Forwarders of America and also our fellow associations across the country.

We thank you for your consideration of our concerns, and stand ready to pledge our membership cooperation in this matter.

Respectfully Submitted,



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